

CHAPTER 8 OFFENSES AND NUISANCES

ARTICLE 8-5 NUISANCE WATER

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Sec. 8-5-1 Declaration of nuisance; offenses

The following acts are unlawful and shall be declared a nuisance:

- (1) Failing to repair a controllable leak, a leaking valve, leaking or broken pipes or a leaking faucet.
- (2) Operating a permanently installed irrigation system with a broken sprinkler head or a sprinkler head that is spraying over a street, alley or parking lot because it is out of adjustment or improperly designed or operated.
- (3) Watering a lawn, tree, plant or other foliage so as to allow the water to run off into or onto a public street, alley, curb or gutter for more than fifty (50) feet from the downgrade of the property line or into a street intersection.

(Ordinance 2011-07 adopted 3/22/11)

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Sec. 8-5-2 Right of entry

The director of utilities, or anyone acting under his direction, shall at reasonable times be permitted to enter any premises or building in which water is used to ascertain if water is being wasted, and in so doing the city shall not be liable in any manner for damages resulting from these activities. (Ordinance 2011-07 adopted 3/22/11)

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Sec. 8-5-3 Defenses; exceptions

It shall be an affirmative defense to prosecution under this section if water is used by any of the following in the stated manners:

- (1) The use of water by any person for roadway base preparation, flushing of utility lines, concrete and asphalt work and for building construction processes;
- (2) The use of water by any person for the repair of water distribution facilities, repairing residential and commercial plumbing facilities, and repairing permanently installed landscape irrigation systems;
- (3) The use of water by a governmental entity in pursuit of its governmental functions for the benefit of the public, including but not limited to capital improvements, construction projects, beautification of city parks, the cleaning of public streets to prevent debris and harmful substances from entering water systems via storm sewers, and the use of water from fire hydrants and trucks related to firefighting-related activities;
- (4) The use of water by any person to alleviate immediate health or fire hazards; or
- (5) The use of water would have been proper if wind or other conditions (outside the control of the person applying the water) had not redirected its application or use.

(Ordinance 2011-07 adopted 3/22/11)

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Sec. 8-5-4 Enforcement

(a) Before taking any enforcement action under this section, notice must be provided to:

- (1) The last known person in whose name city water is or was last billed or who is receiving the economic benefit of said public water supply;
- (2) The owner of the property; or
- (3) The occupant of the property.

(b) Only the person or persons provided notice may be prosecuted. Only one notice per property must be provided per calendar year.

(c) The notice must state:

- (1) The nature of the nuisance and its location; and
- (2) That the nuisance must be abated within five (5) days.

(d) The director of building inspection, or his/her authorized representative, shall have the power to enforce the provisions of this article as to buildings, structures, or permits.

(e) The director of code enforcement, or his/her authorized representative, shall have the power to enforce the provisions of this article as to all violations.

(Ordinance 2011-07 adopted 3/22/11)

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Sec. 8-5-5 Criminal proceedings

(a) Persons violating these provisions may be charged with creating or maintaining a public nuisance.

(b) Upon a finding that a defendant is in violation of this article, such defendant shall be:

- (1) Deemed guilty of a misdemeanor;
- (2) Subject to a fine as herein provided; and
- (3) Ordered to abate and remove such nuisance within ten (10) days of the date of the order.

(c) In instances involving a continuing public nuisance, if the defendant shall fail or refuse, within ten (10) days of the date of the order, to abate the public nuisance, the judge may authorize the city to take additional legal action to obtain compliance with this code.

(Ordinance 2011-07 adopted 3/22/11)

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Sec. 8-5-6 Penalty

A person who violates a provision of this article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Penalties shall be a fine in an amount not to exceed \$200.00 for the first offense, in an amount not to exceed \$350.00 for the second offense and in an amount not to exceed \$500.00 for the third and subsequent offenses. (Ordinance 2011-07 adopted 3/22/11)